

J. JAMES LI (SBN 202855)  
*lij@gtlaw.com*  
 DAVID J. PEREZ (SBN 238136)  
*perezdj@gtlaw.com*  
 GREENBERG TRAURIG, LLP  
 1900 University Avenue, Fifth Floor  
 East Palo Alto, California 94303  
 Telephone: (650) 328-8500  
 Facsimile: (650) 328-8508

MARK L. HOGGE (*Pro Hac Vice*)  
*hoggem@gtlaw.com*  
 SHAILENDRA K. MAHESHWARI (*Pro Hac Vice*)  
*maheshwaris@gtlaw.com*  
 GREENBERG TRAURIG, LLP  
 2101 L Street, N. W., Suite 1000  
 Washington, D.C. 20037  
 Telephone: (202) 331-3100  
 Facsimile: (202) 331-3101

Attorneys for Defendant and Counterclaimant,  
 ATRUA TECHNOLOGIES, INC.

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

AUTHENTEC, INC., a Delaware Corporation,  
 Plaintiff,  
 v.  
 ATRUA TECHNOLOGIES, INC., a California  
 Corporation,  
 Defendant.

Case No. C08-01423 PJH

**MOTION FOR ORDER SHORTENING  
 TIME FOR HEARING ON MOTION  
 FOR ENTRY OF PROTECTIVE ORDER  
 AND TO COMPEL PRODUCTION OF  
 SOURCE CODE**

[NO HEARING REQUIRED]

ATRUA TECHNOLOGIES, INC., a California  
 Corporation,  
 Counterclaimant,  
 v.  
 AUTHENTEC, INC., a Delaware Corporation,  
 CounterDefendant.

1 Atrua moves, pursuant to Civil L.R. 6-3, for an order shortening the time for a hearing on  
2 Atrua's Motion for Entry of Protective Order and to Compel Production of Source Code (the "PO  
3 Motion").

4 This case was filed more than 5 months ago; yet there is still no protective order ("PO") for  
5 producing confidential information. The major issue holding back the PO is the issue of how to  
6 protect source code. For that reason, Atrua has filed the PO Motion.

7 By this administrative motion, Atrua requests the Court to accelerate the hearing and briefing  
8 of the PO Motion. The source code at issue in the PO Motion is absolutely critical to Atrua's  
9 preparation of its case, specifically, Atrua's development of its infringement contentions. The source  
10 code of Authentec is needed as soon as possible, and the delays in obtaining the source code, as well  
11 as any future delays if this motion is not granted, would result in substantial prejudice to Atrua, as  
12 Atrua would not be in a position to adequately prepare its case. The source code will also be relevant  
13 to the court mandated mediation of this case, which mediation is presently set for October 28, 2008.

14 Furthermore, Authentec would not experience any prejudice by advancing this hearing date,  
15 as Authentec undoubtedly also needs to obtain Atrua's source code. Thus, it is a mutual need for the  
16 Court's intervention in this matter, as it is likely that Authentec is just as interested in obtaining  
17 Atrua's source code as Atrua is in obtaining Authentec's source code.

18 For the reasons set forth above and for good cause showing, Atrua respectfully requests that  
19 the Court grant the Motion for an Order Shortening Time to hear Atrua's Motion for Protective Order  
20 and set the Motion for Protective Order for hearing on September 10, 2008, with Authentec's  
21 Opposition, if any, due to be filed on August 29, 2008, and Atrua's Reply, if any, due to be filed on  
22 September 3, 2008.

23  
24 Dated: August 21, 2008

GREENBERG TRAURIG LLP

25 By: \_\_\_\_\_ /s/  
26 J. JAMES LI

27 Attorneys for Defendant and Counterclaimant  
28 Atrua Technologies, Inc.

**DECLARATION OF J. JAMES LI**

I, J. James Li, hereby declare as follows:

1. I am an attorney duly licensed to practice before the United States District Court for the Northern District of California. I am a Shareholder of the law firm Greenberg Traurig LLP, attorneys of record for Defendant and Counterclaimant Atrua Technologies, Inc. ("Atrua"), in the matter of *Authentec, Inc. v. Atrua Technologies, Inc.*, No. C 08-01423 PJH, in the U.S. District Court for the Northern District of California, San Francisco Division.

2. I make this declaration pursuant to Civil L.R. 6-3(a) and in support of Atrua's Notice of Motion and Motion for Order Shortening Time for Hearing on Atrua's motion for a Protective Order and to Compel Production of Authentec's Source Code. This declaration is based upon my own personal knowledge. If called as a witness to testify to the matters asserted herein, I could testify competently.

**Reasons for Requesting Shortened Time**

3. Atrua requests an expedited hearing on the Motion for Protective Order because obtaining Authentec's source code is absolutely necessary to Atrua's preparation of its case, specifically, Atrua's development of its infringement contentions.

4. Atrua further requests an expedited hearing on the Motion for Protective Order because obtaining Authentec's source code will be relevant to the court required mediation aspect of this case, which mediation is presently set for October 28, 2008.

**Efforts Made to Stipulate to Shortening Time**

5. On August 21, 2008, I sent an email to Denise DeMory, Esq., counsel of record for Authentec, asking if Authentec would stipulate to an order shortening time for Atrua's Motion for Protective Order. Ms. DeMory has declined to so stipulate.

**Substantial Harm Will Occur If the Court Does Not Shorten Time**

6. If Atrua's Motion for Protective Order is not heard on an expedited basis, Atrua will be substantially harmed and prejudiced in that it will be prevented from fully preparing its case, and from developing its infringement contentions.

7. The source code will also be relevant to and needed in preparation for the court required mediation aspect of this case, which mediation is presently set for October 28, 2008, a date that is beyond the Court's deadline to complete the mediation, but was nonetheless agreed to by Atrua as a date that was suggested by Authentec's counsel.

8. Moreover, it is unlikely Authentec will suffer any prejudice by advancing the hearing on Atrua's Motion for Protective Order, as Authentec has not been able to obtain Atrua's source code either, while the protective order issue is still pending.

**Nature of the Underlying Dispute Addressed in the Motion for Protective Order**

9. Atrua's Motion for Protective Order seeks Court intervention to set a protective order for this case, as the parties have been unable to reach an agreement as to critical terms of the protective order. It is Atrua's position that the designation provided for in the terms that the parties agree on of "Highly Confidential - Attorneys' Eyes Only" provides adequate protection for Authentec's source code. It appears to be Authentec's position that such a designation is not sufficient to protect its source code and that the only way such protection can be accomplished is through Atrua's counsel reviewing Authentec's source code on a "review computer" set up in Authentec's counsel's office.

### Disclosure of Any Previous Time Modifications

10. There have been no previous time modifications approved by this Court in this case. However, the Mediation date for this case has been moved to October 28, 2008, pending the Court's approval of that date, as it is beyond the Court's deadline to complete the mediation.

### Effect of the Requested Time Modification on the Case Schedule

11. Advancing the hearing date on Atrua's Motion for Protective Order will not adversely affect the progression of this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on August 21, 2008, at East Palo Alto, California.

/s/  
J. JAMES LI